IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 2013 of 2007

ASHOK KUMAR
V/S
BABU LAL

Mr. MS RATHORE for Mr. PS BHATI, for the appellant / petitioner

Date of Order : 7.8.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the petitioner.

Both the learned courts below have clearly found that the summons were duly served inasmuch as summons were sent for service number of times, and they were refused even by the wife of the petitioner, and they were affixed on the house, and thereafter summons were published in the local daily news paper.

It is contended that in the summon the petitioner was described as Modi Agarwal while the petitioner is Oswal, and therefore, it cannot be said that summons were sufficiently served.

It has been found by the learned courts below that in the rent note his name has been mentioned as Ashok Kumar

Modi. Then, in the summons his father's name was also given, and it is not shown that the house at which the summons were affixed any other person named Ashok Kumar Modi resides on account of which the petitioner entertained confusion. Thus, it was found that there was no sufficient cause for remaining absent , and for condoning the delay in filing application under O. 9 Rule 13 C.P.C.

In my view, the findings do not require any interference in my writ jurisdiction. The writ petition is, therefore, dismissed.

(N P GUPTA),J.

/sushil/